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the municipality by the State either in express terms or by necessary implication; or when, on the other hand, it has been acquired by the terms of the franchise granted to the private organization. Even when the power of regulation is to hand, moreover, it must be exercised in what the courts may deem to be, upon the circumstances of each case, a reasonable manner.

In the concluding chapter of the volume, Dr. Pond summarizes his general conclusion and adds a full list of cited cases. These conclusions bear the marks of a discriminating hand and sound judgment. The monograph is throughout a careful study of a very interesting topic, and presents in very succinct and readable form all the important generalizations which one may safely venture to make within the field with which it professes to deal.

WILLIAM BENNETT MUNRO.

*Commerce in War.* By L. A. ATHERLEY-JONES, assisted by HUGH H. L. BELLOT. (London: Methuen & Co. 1907. Pp. xii, 654.)

According to the preface, "The purpose of this work is to provide a full exposition of the rules of international law which govern the commercial relations of the subjects of neutral and belligerent States."

The subjects of the chapters are as follows: Contraband, blockade, continuous voyage, carriage of property at sea, right of visit and search, capture and condemnation, formalities of capture, recapture and rescue.

These chapters are preceded by a lengthy table of cases in which are noticed several inconsistent abbreviations and occasional errors.

In the text the first and second chapters on contraband and blockade, respectively, are decidedly the best. These chapters cover more than two hundred and fifty of the six hundred and fifty pages of the book thus giving an extended treatment of the topics of contraband and blockade. In the chapter on contraband there is an excellent historical sketch of the development of the theory of contraband and of the inequalities in practice from early times to the present. It would probably be possible to find attempts to define contraband by treaty several centuries earlier than the treaty of 1604 between England, Spain and Burgundy which is mentioned. There seems to be no reference to the interesting English proclamation of 1626 extend-

ing the penalty for carrying contraband to the "return in the same voyage." Many of the early tendencies traced in this first chapter have come up in new forms in later days, as shown in the present attitude toward absolute and conditional contraband, and in the recent attempts to make the neutral State responsible for carriage of contraband by its citizens. The gradual inclusion of new articles in the category of contraband as warfare developed, and the reluctance to omit any of the articles of the earlier lists, even though long since of no use in war, is well shown. The variety of practice in regard to provisions, horses, clothes, food, fuel, and ships is also set forth. The effect of the introduction of the idea of destination and of intention as related to contraband is discussed. The extension of the list of contraband is to a large extent traced to the influence of the United States. The criticism of the Russian attitude in 1904-05 does not sufficiently show the results of the discussion of the decisions of the Russian courts in the Far East and of the high admiralty court at St. Petersburg, though the comment on the British position at that time is to the point. On p. 54 there is an excellent tabular arrangement of the provisions of diplomatic documents which well covers the field between 1604 and 1898. The following excellent statement appears on p. 64, "The question of applying some precise and definite tests as to the conditions under which articles *incipitis usus* may properly be seized by a belligerent still remains a disputed point, and thus a source of grave injury to neutral commerce and peril to international friendship. In default of any better, the ancient rule as to character of port of destination still obtains; but the supposed inefficiency of this rule to afford adequate protection to belligerents has, as we have pointed out, had two regrettable results—first, in the extension by belligerents of the category of goods absolutely contraband, as in the case of coal and cotton by Russia in her war with Japan; and secondly under the stress of circumstances, in the violation, as in the case of the *Bundesrath*, from time to time of the rule as to destination." Under such conditions it is very fitting that demand for a better definition of contraband be made.

The author seems to neglect some of the reasons for the granting to mail steamers of special privileges. The transport of belligerent persons should not at the present day be considered under the heading of contraband.

In the chapter on blockade the view of Great Britain and the United States as to what constitutes effective blockade is maintained. The

attitude of acquiescence in blockade notified by insurgents is not warranted in theory or in practice for insurgents are not entitled to war status which is necessary for the existence blockade as provided for in the treaty of Paris of 1856. Blockade involves a state of war. Thus insurgents until recognized as belligerents may not establish a blockade in the full legal sense and pacific blockade becomes an absurdity. Speaking of pacific blockade the author says: "The danger of allowing a semblance of legality to any such halfway house between peace and war can hardly be exaggerated" (p. 109). It is hardly in accord with the fact to say that "pacific blockade of Venezuelan ports by Great Britain and Germany in 1902 met with "no remonstrances," for the United States let it be known distinctly that it did not acquiesce in the proposed plan. Toward the end of the chapter the difference between the British and American views upon some aspects of blockade is emphasized.

In the chapter on continuous voyage the author points out the dangers of this doctrine as applied by the American courts but does not sufficiently point out the necessity of preventing the practice which the courts aim to penalize. There is no doubt that condemnation of goods by *belligerents* "on suspicions, satisfactory to themselves, that their enemies are ultimately intended to have the benefit of them" would be a matter for grave apprehension. It is the "actual destination" rather than "suspicion" that is now coming to be regarded as a criterion determining the treatment of the goods. The British attitude during the South African war and some opinions of eminent English authorities since that time show a drift away from the provisions of the *Admiralty Manual of 1888*. One wishes that the chapter on continuous voyage had more of the recent drift of British practice and opinion.

The chapter on carriage of property at sea gives brief sketches of the practice of different States. The conduct of Russia is mentioned as "uniformly inconsistent" (p. 289).

In the chapter on right of search mention is made that Russia in 1877 treated "despatches and correspondence of the enemy as analogous to contraband of war." It would be well to mention also that a similar provision was included in the rules issued February 14, 1904. The conclusion is drawn in regard to the exemption of private property at sea that, "The government of Great Britain, which has most to gain by the general recognition of this principle, is, strangely enough, the most consistent opponent to its introduction" (p. 318).

It may be said that at the present time the British opinion seems to be drifting toward the approval of the freedom of private property at sea. Only a single page is given to the topic of what constitutes a lawful commission of a vessel. This question which has recently given rise to so much controversy might without disregard of the proportions of the chapter receive more extended treatment. In considering the formalities of visit and search, the following statement is hardly in accord with the practice: "Today the general rule, as expressed by treaty, is that the visiting ship shall approach not nearer than a cannon shot, and shall send a boat with not more than two persons besides the boat's crew, which two persons shall go on board and inspect the ship's papers, of which the form is usually settled by the treaty" (p. 338). Many treaties provide that the visiting ship shall remain at a "convenient distance" or make some similar provision. A cannon shot would under modern conditions often be at too great a distance. Many treaties and some regulations prescribe that the visit shall be made by "an officer accompanied by not more than two men." The form of ship's papers can hardly be said to be "usually settled by treaty," though treaty agreements to regard the papers which are required by the laws of each State often occur. A convenient list of such papers occurs on p. 347.

In the chapter on capture and condemnation the author points out the difficulties arising from attempts to prove intention. More emphasis might have been put on the extension of the neutrality laws of the United States to conditions of insurrection. The author with good reason takes strong exception to Professor Holland's position that "in cases of greatest importance to the captor's own State" (p. 535), the captor may destroy a neutral ship before condemnation by a prize court.

One would hardly expect to find in the chapter on the formalities of capture, a section on the Status of the Russian Volunteer Fleet. In regard to the commissioning of these vessels it is properly maintained that, "The doctrine that a vessel may play fast and loose, put on and put off her public character as it suits her convenience, has no foundation in common sense or in international law" (p. 543).

The concluding chapter is a well arranged outline of the history and practice in regard to capture and recapture.

The index is inadequate and contains very few cross-references. As examples of the inadequacy, there is a reference to the case of the *Knight Commander*, but none to the *Kowsing*, there is no

reference under "contraband" to "occasional contraband" or to "conditional contraband," but it may be found under the title *incipitis usus*. "Dr. Truman Snow," mentioned on p. 600, is apparently intended as a reference to Dr. Freeman Snow. The statement in regard to the *United States Naval War Code of 1900* on p. 536, that it is "now withdrawn in favor of the *Naval War Code of 1904* which has not yet reached this country (England)," is not in accord with the fact. There is no *Naval Code of 1904*, nor was the *Code of 1900* withdrawn in favor of any other code. The reference to Gentilis on p. 6 is apparently a misprint and 1583 should read 1588. It seems strange to see on p. 39 the British proclamation of neutrality in an English book in the French language quoted from the *Archives Diplomatiques* and a quotation immediately below in English from the volume of the *State Papers* in which the proclamation appears in its original English form.

The method of presentation is not uniform in the different chapters. Marginal references appear in the first chapter, but not in the subsequent chapters. Black letter headings appear for the first time in the fourth chapter and are continued in the remaining chapters. Both marginal and black letter aids could be used throughout to advantage. The typographical work is excellent and it is a great pleasure to use a book of more than 650 pages which because of the quality of the paper weighs only a fraction of what an American book of similar number of pages would weigh.

As a whole, *Commerce in War* is a valuable and useful work upon maritime commerce in war. It puts in convenient and accessible form a large amount of material otherwise scattered and hard to obtain. In its field the topics, contraband, blockade, and capture and condemnation are particularly well treated. The author, Mr. Atherley-Jones and his co-laborer, Dr. Bellot, have produced an excellent book of a kind needed at the present time, a book aiming to cover fully a limited field of international law rather than to cover in a superficial manner the whole field.

G. G. WILSON.

*A History of Diplomacy in the International Development of Europe.*  
By DAVID JAYNE HILL. (New York: Longmans, Green and Company. Vol. i, 1905 Pp. xxiii, 481; Vol. ii, 1907, xxvi, 664.

*A History of Diplomacy in the International Development of Europe* is the title appearing upon the title page of Dr. Hill's work. His